

**First Draft
June 11, 2015**

**CONTRACT
FOR
PRIVATE DEVELOPMENT
between
CITY OF SHAKOPEE, MINNESOTA,
ECONOMIC DEVELOPMENT AUTHORITY
FOR THE CITY OF SHAKOPEE, MINNESOTA
and
AMAZON.COM.DEDC, LLC**

Dated: _____, 2015

This document was drafted by:

KENNEDY & GRAVEN, Chartered (JAE)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, Minnesota 55402
Telephone: 337-9300

TABLE OF CONTENTS

	<u>Page</u>
PREAMBLE	1
 ARTICLE I <u>Definitions</u>	
Section 1.1. Definitions	3
 ARTICLE II Representations and Warranties	
Section 2.1. Representations by the City	5
Section 2.2. Representations by the Authority.....	5
Section 2.3. Representations and Warranties by the Developer	5
 ARTICLE III <u>Property Tax Abatement</u>	
Section 3.1. Status of Development Property	7
Section 3.2. Environmental Conditions	7
Section 3.3. Minimum Improvements	7
Section 3.4. City Development Assistance	7
Section 3.5. Business Subsidy Agreement.....	8
Section 3.6. TIF District	8
Section 3.7. Public Infrastructure	8
Section 3.4. Payment of Administrative Costs	8
 ARTICLE IV <u>Construction of Minimum Improvements</u>	
Section 4.1. Construction of Improvements	10
Section 4.2. Construction Plans	10
Section 4.3. Commencement and Completion of Construction.....	10
Section 4.4. Certificate of Completion	10
 ARTICLE V <u>Insurance and Condemnation</u>	
Section 5.1. Insurance.....	11
 ARTICLE VI <u>Taxes</u>	
Section 6.1. Right to Collect Delinquent Taxes.....	12
Section 6.2. Reduction of Taxes	12

ARTICLE VII
Prohibitions Against Assignment and Transfer; Indemnification

Section 7.1.	Representation as to Development.....	14
Section 7.2.	Prohibition Against Developer's Transfer of Property and Assignment of Agreement.....	15
Section 7.3.	Release and Indemnification Covenants	15

ARTICLE VIII
Events of Default

Section 8.1.	Events of Default Defined	16
Section 8.2.	Remedies on Default.....	16
Section 8.3.	No Remedy Exclusive	17
Section 8.4.	No Additional Waiver Implied by One Waiver	17
Section 8.5.	Attorney Fees.....	17
Section 8.6.	Default by City or Authority.....	17

ARTICLE IX
Additional Provisions

Section 9.1.	Conflict of Interests; Representatives Not Individually Liable.....	18
Section 9.2.	Equal Employment Opportunity	18
Section 9.3.	Provisions Not Merged With Deed.....	18
Section 9.4.	Titles of Articles and Sections	18
Section 9.5.	Notices and Demands	18
Section 9.6.	Counterparts.....	18
Section 9.7.	Recording.....	18

SIGNATURES	S-1
------------------	-----

SCHEDULE A Development Property	A-1
SCHEDULE B Certificate of Completion	B-1

CONTRACT FOR PRIVATE DEVELOPMENT

THIS CONTRACT FOR PRIVATE DEVELOPMENT (the "Agreement") is made as of _____, 2015, by and between the CITY OF SHAKOPEE, MINNESOTA, a Minnesota municipal corporation (the "City"), the ECONOMIC DEVELOPMENT AUTHORITY FOR THE CITY OF SHAKOPEE, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota (the "Authority"), and AMAZON.COM.DEDC, LLC, a Delaware limited liability company, or any of its affiliates (the "Developer").

RECITALS

WHEREAS, the Authority was created pursuant to Minnesota Statutes, Sections 469.090 to 469.1081, as amended (the "EDA Act") and was authorized to transact business and exercise its powers by a resolution of the City Council of the City; and

WHEREAS, the City has undertaken a program to promote economic development and job opportunities and to promote the development and redevelopment of land which is underutilized within the City, and has created the Minnesota River Valley Housing and Redevelopment Project No. 1 (hereinafter referred to as the "Project") in an area (hereinafter referred to as the "Project Area") located in the City pursuant to Minnesota Statutes, Sections 469.001 through 469.047, as amended (the "HRA Act"); and

WHEREAS, by resolution dated April 4, 1995, the City Council of the City transferred control, authority, and operation of the Project to the Authority, which currently administers the Project, exercising the powers of a housing and redevelopment authority under the HRA Act, in accordance with the EDA Act; and

WHEREAS, pursuant to the EDA Act and the HRA Act, the Authority is authorized to undertake certain activities to prepare real property for development and redevelopment by private enterprise; and

WHEREAS, pursuant to Minnesota Statutes, Sections 116J.993 to 116J.995, as amended (the "Business Subsidy Act"), the City and the Authority are authorized to grant business subsidies to facilitate development in the City, the County, and the State of Minnesota (the "State"); and

WHEREAS, RELP Shakopee, LLC, a Delaware limited liability company, has proposed to construct an approximately 820,000 square foot building for use as a distribution and warehouse facility including approximately 750,000 square feet of warehouse processing space and approximately 70,000 square feet of associated office space (the "Minimum Improvements"), on real property located in the City and described in Exhibit A (the "Development Property"). The Developer has proposed to lease the Minimum Improvements for use as a distribution and warehouse facility; and

WHEREAS, in order to make construction of the Minimum Improvements financially feasible, the Developer has requested assistance in the form of sewer access charge credits from the City in the amount of \$305,655; and

WHEREAS, the Authority has established the Tax Increment Financing (Economic Development) District No. 17 ("TIF District") pursuant to Minnesota Statutes, Sections 469.174 through 469.1794, as amended, made up of the area to be developed by the Developer and the Authority shall transfer a portion of the tax increment generated by the TIF District to the City and Scott County in order to finance the costs of certain public improvements necessitated by the development of the Minimum Improvements; and

WHEREAS, the City has determined that the financial assistance provided to the Developer as contemplated herein and the fulfillment generally of this Agreement are in the vital and best interests of the City and the health, safety, morals, and welfare of their residents, and in accord with the public purposes and provisions of the applicable State and local laws and requirements under which this Agreement has been undertaken; and

NOW, THEREFORE, in consideration of the mutual obligations contained in this Agreement, the parties agree as follows:

ARTICLE I

Definitions

Section 1.1. Definitions. In this Agreement, unless a different meaning clearly appears from the context:

“Agreement” means this Contract for Private Development, as the same may be from time to time modified, amended, or supplemented.

“Authority” means the Economic Development Authority for the City of Shakopee, Minnesota.

“Business Day” means any day except a Saturday, Sunday, legal holiday, a day on which the City is closed for business, or a day on which banking institutions in the City are authorized by law or executive order to close.

“Business Subsidy Act” means Minnesota Statutes, Sections 116J.993 to 116J.995, as amended.

“Certificate of Completion” means the certification provided to the Developer, or the purchaser of any part, parcel or unit of the Development Property, pursuant to Section 4.4 of this Agreement.

“City” means the City of Shakopee, Minnesota.

“City Development Assistance” means 123 sewer access charge credits from the City in the amount of up to \$305,655.

“Compliance Date” means, for purposes of the job and wage creation goals set forth in Section 3.5 hereof, the date which is two years after the date of issuance of the Certificate of Completion of the Minimum Improvements.

“Construction Plans” means the plans, specifications, drawings and related documents on the construction work to be performed by the Developer on the Development Property, including the Minimum Improvements and the related site improvements, which (a) shall be as detailed as the plans, specifications, drawings and related documents which are submitted to the appropriate building officials of the City, and (b) shall include at least the following: (1) site plan; (2) foundation plan; (3) basement plans; (4) floor plan for each floor; (5) cross sections of each (length and width); (6) elevations (all sides); (7) landscape plan; and (8) such other plans or supplements to the foregoing plans as the City may reasonably request to allow it to ascertain the nature and quality of the proposed construction work.

“County” means Scott County, Minnesota.

“Developer” means Amazon.com.dedc, LLC, a Delaware limited liability company, or its permitted successors and assigns.

“Development Property” means the real property described in Schedule A of this Agreement.

“Event of Default” means an action by the Developer listed in Article IX of this Agreement.

“Minimum Improvements” means the Owner’s construction of a building totaling approximately 820,000 square feet including approximately 750,000 square feet of warehouse processing space and

approximately 70,000 square feet of associated office space which will be leased to the Developer for use a distribution and warehouse facility.

“Owner” means RELP Shakopee, LLC’s, a Delaware limited liability company, the owner of the Development Property.

“Project” means the Minnesota River Valley Housing and Redevelopment Project No. 1.

“Project Area” means the property within the Project, as described in the Redevelopment Plan.

“Redevelopment Plan” means the Redevelopment Plan for the Project.

“State” means the State of Minnesota.

“Tax Increment” means that portion of the real property taxes that is paid with respect to the Development Property and that is remitted to the Authority as tax increment pursuant to the Tax Increment Act.

“Tax Increment Act” or “TIF Act” means the Tax Increment Financing Act, Minnesota Statutes Sections 469.174 through 469.1794, as amended.

“Tax Increment District” or “TIF District” means Tax Increment Financing (Economic Development) District No. 17, an economic development tax increment financing district created by the City and the Authority.

“Tax Increment Plan” or “TIF Plan” means the Tax Increment Financing Plan for the TIF District approved by the City Council on May 19, 2015, and as it may be amended.

“Tax Official” means any County assessor, County auditor, County or State board of equalization, the commissioner of revenue of the State, or any State or federal district court, the tax court of the State, or the State Supreme Court.

“Transfer” has the meaning set forth in Section 7.2(a) hereof.

“Unavoidable Delays” means delays beyond the reasonable control of the party seeking to be excused as a result thereof which are the direct result of strikes, other labor troubles, prolonged adverse weather or acts of God, fire or other casualty to the Minimum Improvements, litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays, or acts of any federal, state or local governmental unit (other than the City in exercising their rights under this Agreement) which directly result in delays. Unavoidable Delays shall not include delays in the obtaining of permits or governmental approvals necessary to enable construction of the Minimum Improvements by the dates such construction is required under Section 4.3 of this Agreement, so long as the Construction Plans have been approved in accordance with Section 4.2 hereof.

ARTICLE II

Representations and Warranties

Section 2.1. Representations by the City. The City makes the following representations and warranties as the basis for its covenants herein:

(a) The City is a statutory city duly organized and existing under the laws of the State. The City has the power to enter into this Agreement and carry out its obligations hereunder.

(b) The City proposes to grant to the Developer the City Development Assistance, to assist in the construction of the Minimum Improvements, all for the purposes of increasing tax base, creating employment opportunities, and encouraging economic development within the City.

Section 2.2. Representations by the Authority. The Authority makes the following representations and warranties as the basis for its covenants herein:

(a) The Authority is an economic development authority duly organized and existing under the laws of the State. The Authority has the power to enter into this Agreement and carry out its obligations hereunder.

(b) The activities of the Authority are undertaken for the purpose of fostering the development of certain real property in the City for the purposes of increasing tax base, creating employment opportunities, and encouraging economic development within the City.

Section 2.3. Representations and Warranties by the Developer. The Developer makes the following representations and warranties as the basis for its covenants herein:

(a) The Developer is a limited liability company, duly organized and in good standing under the laws of the State of Delaware, is not in violation of any provisions of its operating agreement or its bylaws, is duly authorized to transact business within the State, has power to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement by proper action of its officers.

(b) The Developer will cause the Minimum Improvements to be constructed, lease the Minimum Improvements, and cause the Minimum Improvements to be operated and maintained in accordance with the terms of this Agreement and all local, state and federal laws and regulations (including, but not limited to, environmental, zoning, building code and public health laws and regulations).

(c) The Developer has received no notice or communication from any local, State or federal official that the activities of the Developer with respect to the Minimum Improvements may be or will be in violation of any environmental law or regulation (other than those notices or communications of which the City is aware). The Developer is aware of no facts the existence of which would cause it to be in violation of or give any person a valid claim under any local, state or federal environmental law, regulation or review procedure with respect to the Minimum Improvements.

(d) The Developer will cause the Minimum Improvements to be constructed in accordance with all local, State or federal energy-conservation laws or regulations.

(e) The Developer will ensure that, in a timely manner, all required permits, licenses and approvals, and all requirements of all applicable local, State and federal laws and regulations will be obtained or met before it causes the Minimum Improvements to be lawfully constructed.

(f) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of any corporate restriction or any evidence of indebtedness, agreement or instrument of whatever nature to which the Developer is now a party or by which it is bound, or constitutes a default under any of the foregoing, which default or breach might prevent the Developer from performing its obligations under this Agreement.

(g) The Developer shall promptly advise the City in writing of all litigation or claims affecting any part of the Minimum Improvements and all written complaints and charges made by any governmental authority materially affecting the Minimum Improvements or materially affecting the Developer or its business which may delay or require changes in construction of the Minimum Improvements through the date of the Certificate of Completion.

(h) The Developer is not in default under any business subsidy agreement pursuant to Section 116J.994 of the Business Subsidy Act.

(The remainder of this page is intentionally left blank.)

ARTICLE III

Development Assistance

Section 3.1. Status of Development Property. As of the date of this Agreement, the Development Property is owned by RELP Shakopee, LLC. RELP Shakopee, LLC will construct the Minimum Improvements at the request of the Developer. The Developer will enter into a lease with RELP Shakopee, LLC to lease the Development Property. Thereafter, the Developer will equip and operate the Minimum Improvements. The City and the Authority shall have no obligation to acquire the Development Property or any portion thereof.

Section 3.2. Environmental Conditions.

(a) The Developer acknowledges that the City makes no representations or warranties as to the condition of the soils on the Development Property or the fitness of the Development Property for construction of the Minimum Improvements or any other purpose for which the Developer may make use of such property, and that the assistance provided to the Developer under this Agreement neither implies any responsibility by the City for any contamination of the Development Property nor imposes any obligation on such parties to participate in any cleanup of the Development Property.

(b) Without limiting its obligations under Section 7.3 of this Agreement, the Developer further agrees that it will indemnify, defend, and hold harmless the City and its governing body members, officers, and employees, from any claims or actions arising out of the presence, if any, of hazardous wastes or pollutants existing on or in the Development Property, unless and to the extent that such hazardous wastes or pollutants are present as a result of the actions or omissions of the indemnitees. Nothing in this section will be construed to limit or affect any limitations on liability of the City under State or federal law, including without limitation Minnesota Statutes, Sections 466.04 and 604.02.

Section 3.3. Minimum Improvements. The Developer hereby covenants to cause the construction of the Minimum Improvements on the Development Property pursuant to the terms and conditions of this Agreement. The Developer further agrees to lease the Minimum Improvements and to operate the Minimum Improvements as a distribution and warehouse facility for a period of the term of the TIF District, which is expected to terminate on December 31, 2025.

Section 3.4. City Development Assistance. In consideration for the Developer's promise to cause the construction of, equip and operate the Minimum Improvements and create the jobs set forth in Section 3.5(b), the City has agreed to provide the Developer with up to 123 City sewer access charge credits in the amount of up to \$305,000 for the Minimum Improvements (the "City Development Assistance").

Section 3.5. Business Subsidy. The provisions of this Section constitute the "business subsidy agreement" in connection with the business subsidy provided by the City for the purposes of the Business Subsidy Act. In consideration for the Developer's promise to cause the construction of the Minimum Improvements and to create the jobs set forth in this Section 3.5, the City has agreed to provide the Developer with the City Development Assistance. If the Developer does not complete the Minimum Improvements and does not create the jobs required by Section 3.5 within two years of the Benefit Date, the Developer must repay all or a portion of the City Development Assistance as required by Section 3.5(c).

(a) General Terms. The parties agree and represent to each other as follows:

(i) The business subsidy provided to the Developer under this Agreement consists of the City Development Assistance. All such payments and grants represent forgivable loans that are repayable by the Developer in accordance with this Section.

(ii) The public purposes of the subsidies are to provide employment opportunities, increase the tax base of the City and encourage economic development within the City.

(iii) The goals for the subsidies are to secure development of the Minimum Improvements, to maintain the Minimum Improvements a distribution and warehouse facility for at least five years as described in clause (vi) below, and to create the jobs and wage levels in accordance with Section 3.5(b) hereof.

(iv) If the goals described in clause (iii) are not met, the Developer must make the payments to the City described in Section 3.5(c).

(v) The subsidy is needed to induce the Developer to locate its operations in the City, thus enhancing job and tax base growth for the City and the State as a whole. Absent the subsidy provided in this Agreement, the expansion would likely occur in another city.

(vi) The Developer must continue operation of the Minimum Improvements as a distribution and warehouse facility for at least five years after the date of the Developer occupies the Minimum Improvements, which shall be evidenced by the issuance of the Certificate of Completion.

(vii) In addition to the subsidies described in this Section 3.5(a), the Developer has also received financial assistance from the following other “grantors” as defined in the Business Subsidy Act, in connection with the Development Property or the Minimum Improvements: [DEVELOPER TO PROVIDE LIST, if any].

(b) Job and Wage Goals. Within two years after the date of issuance of the Certificate of Completion of the Minimum Improvements (the “Compliance Date”), the Developer shall cause to be created at least 40 new full-time equivalent jobs on the Development Property and shall cause the wages for all employees on the Development Property to be no less than \$14.50 per hour, exclusive of benefits. Notwithstanding anything to the contrary herein, if the wage and job goals described in this paragraph are met by the Compliance Date, those goals are deemed satisfied despite the Developer’s continuing obligations under Sections 3.5(a)(vi) and 3.5(d). The City may, after public hearings held by the respective governing body, extend the Compliance Date by up to one year, provided that nothing in this section will be construed to limit the City’s legislative discretion regarding this matter.

(c) Remedies. If the Developer fails to meet the goals described in Section 3.5(a)(iii), this Agreement will be deemed terminated, and the Developer shall repay to the City upon written demand from the City a “pro rata share” of the City Development Assistance. The term “pro rata share” means percentages calculated as follows:

(i) if the failure relates to the number of jobs, the jobs required less the jobs created, divided by the jobs required;

(ii) if the failure relates to wages, the number of jobs required less the number of jobs that meet the required wages, divided by the number of jobs required;

(iii) if the failure relates to maintenance of the distribution and warehouse facility with related office space in accordance with Section 3.5(a)(vi), 60 less the number of months of operation

as a distribution and warehouse facility with related office space (where any month in which the facility is in operation for at least fifteen (15) days constitutes a month of operation), commencing on the date of the certificate of completion and ending with the date the facility ceases operation as determined by the City, divided by sixty (60); and

(iv) if more than one of clauses (i) through (iii) apply, the sum of the applicable percentages, not to exceed 100%.

Nothing in this Section shall be construed to limit the City's or the Authority's remedies under Article IX hereof. In addition to the remedy described in this Section and any other remedy available to the City or the Authority for failure to meet the goals stated in Section 3.5(a)(iii), the Developer agrees and understands that it may not receive a business subsidy from the City, the Authority, or any other grantor (as defined in the Business Subsidy Act) for a period of five years from the date of the failure or until the Developer satisfies its repayment obligation under this Section, whichever occurs first.

(d) Reports. The Developer must submit to the City a written report regarding business subsidy goals and results by no later than March 1 of each year, commencing March 1, 2016, and continuing until the later of (i) the date the goals stated in Section 3.5(a)(iii) are met; (ii) 30 days after expiration of the five-year period described in Section 3.5(a)(vi); or (iii) if the goals are not met, the date the subsidy is repaid in accordance with Section 3.5(c). The report must comply with Section 116J.994, subdivision 7 of the Business Subsidy Act. The City will provide information to the Developer regarding the required forms. If the Developer fails to timely file any report required under this Section, the City will mail the Developer a warning within one week after the required filing date. If, after fourteen (14) days of the postmarked date of the warning, the Developer fails to provide a report, the Developer must pay to the City a penalty of \$100 for each subsequent day until the report is filed. The maximum aggregate penalty payable under this Section is \$1,000. The City will file any reports required to be filed with the State under the Business Subsidy Act.

Section 3.5. TIF District. The Developer understands that the Authority and the City have created the TIF District which includes the Development Property. All Tax Increment generated from the TIF District will be used by the City, the Authority and the County for administrative costs and infrastructure improvements benefitting the Development Property. The Developer understands that the Tax Increment is pledged to the payment of public infrastructure improvements necessitated by the Minimum Improvements and administrative costs and no Tax Increment will be provided to the Developer.

Section 3.6. Public Infrastructure. The Authority will enter into a separate agreement with Scott County and the City for the purposes of providing the terms and provisions for distributing the Tax Increment to Scott County and the City to pay the costs of the public infrastructure improvements necessitated by the Minimum Improvements.

Section 3.7. Payment of Administrative Costs. The Developer agrees that it will pay, within 15 days after written notice from the City or the Authority, the reasonable costs of consultants and attorneys retained by the Authority or the City in connection with the creation of the TIF District and the negotiation in preparation of this Agreement and other incidental agreements and documents related to the development contemplated hereunder. Any amount deposited by the Developer, upon application for assistance from the City or Authority, will be credited to the Developer's obligation under this Section. Upon termination of this Agreement in accordance with its terms, the Developer remains obligated under this Section for costs incurred through the effective date of termination.

ARTICLE IV

Construction of Minimum Improvements

Section 4.1. Construction of Improvements. The Developer agrees that it will cause the Minimum Improvements to be constructed on the Development Property by the Owner in accordance with the approved Construction Plans and at all times during the term of this Agreement will operate, maintain, preserve and keep the Minimum Improvements with the appurtenances and every part and parcel thereof, in good repair and condition. The City and the Authority shall have no obligation to operate or maintain the Minimum Improvements.

Section 4.2. Construction Plans.

(a) Before commencement of construction of the Minimum Improvements, the Developer shall cause the Owner to submit to the City the Construction Plans and shall cause the Owner to work with the City's Planning and Zoning Department to obtain all of the proper reviews and approvals necessary to construct the Minimum Improvements on the Development Property.

Section 4.3. Commencement and Completion of Construction. The Developer shall cause the construction of the Minimum Improvements to commence on or prior to _____, 2015. Subject to Unavoidable Delays, the Developer shall cause the construction of the Minimum Improvements to be completed by _____, 2016. All work with respect to the Minimum Improvements to be constructed on the Development Property shall be in conformity with the Construction Plans as submitted by the Owner and approved by the City.

The Developer agrees for itself, its successors and assigns, and every successor in interest to the Development Property, or any part thereof, that the Developer, and such successors and assigns, shall promptly cause the development of the Development Property through the construction of the Minimum Improvements thereon to begin and will diligently cause the construction to be prosecuted to completion, and cause such construction in any event to be commenced and completed within the period specified in this Section 4.3.

Section 4.4. Certificate of Completion.

(a) Promptly after completion of the Minimum Improvements in accordance with those provisions of the Agreement relating solely to the obligations of the Developer to cause the Minimum Improvements to be constructed (including the dates for beginning and completion thereof), the City will furnish the Developer with a Certificate of Completion shown as Schedule B and shall forward a copy of such Certificate of Completion to the Authority.

(b) If the City shall refuse or fail to provide any certification in accordance with the provisions of this Section 4.4 of this Agreement, the City shall, within thirty (30) days after written request by the Developer, provide the Developer with a written statement, indicating in adequate detail in what respects the Developer has failed to complete the Minimum Improvements in accordance with the provisions of the Agreement, or is otherwise in default, and what measures or acts it will be necessary, in the reasonable opinion of the City, for the Developer to take or perform in order to obtain such certification.

ARTICLE V

Insurance and Condemnation

Section 5.1. Insurance.

(a) The Developer will provide evidence that RELP Shakopee, LLC will maintain at all times during the process of constructing the Minimum Improvements an All Risk Broad Form Basis Insurance Policy and, from time to time during that period, at the request of the City, on behalf of the City and the Authority, furnish the City with proof of payment of premiums on policies covering the following:

(i) builder's risk insurance, written on the so-called "Builder's Risk -- Completed Value Basis," in an amount equal to one hundred percent (100%) of the insurable value of the Minimum Improvements at the date of completion, and with coverage available in nonreporting form on the so-called "all risk" form of policy; and

(ii) comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance) together with an Owner's Protective Liability Policy with limits against bodily injury and property damage of not less than \$2,000,000 for each occurrence (to accomplish the above-required limits, an umbrella excess liability policy may be used); and

(iii) workers' compensation insurance, with statutory coverage, provided that the Developer may be self-insured with respect to all or any part of its liability for workers' compensation.

(b) Upon completion of construction of the Minimum Improvements and during the term of this Agreement, the Developer shall maintain, or cause to be maintained, at its cost and expense, and from time to time at the request of the City shall furnish proof of the payment of premiums on, insurance as follows:

(i) Insurance against loss and/or damage to the Minimum Improvements under a policy or policies covering such risks as are ordinarily insured against by similar businesses.

(ii) Comprehensive general public liability insurance, including personal injury liability (with employee exclusion deleted), against liability for injuries to persons and/or property, in the minimum amount for each occurrence and for each year of \$2,000,000 and \$5,000,000 in the aggregate.

(iii) Such other insurance, including workers' compensation insurance respecting all employees of the Developer, in such amount as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure; provided that the Developer may be self-insured with respect to all or any part of its liability for workers' compensation.

(c) All insurance required in Article V of this Agreement shall be taken out and maintained in responsible insurance companies selected by the Developer which are authorized under the laws of the State to assume the risks covered thereby. Upon request, the Developer will deposit or cause to be deposited annually with the City policies evidencing all such insurance, or a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. In lieu of separate

policies, the Developer may maintain or cause to be maintained a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein, in which event the Developer shall deposit with the City a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

(d) The Developer will notify the City and the Authority promptly in the case of damage exceeding \$1,000,000 in amount to, or destruction of, the Minimum Improvements or any portion thereof resulting from fire or other casualty.

(The remainder of this page is intentionally left blank.)

ARTICLE VI

Taxes

Section 6.1. Right to Collect Delinquent Taxes. The Developer acknowledges that the City and the Authority are providing substantial aid and assistance in furtherance of the construction of the Minimum Improvements on the Development Property pursuant to this Agreement. The Developer understands that the Tax Increment to be used for infrastructure improvements benefitting the Development Property and is derived from real estate taxes on the Development Property, which taxes must be promptly and timely paid. To that end, the Developer agrees for itself, its successors and assigns, that it is also obligated by reason of this Agreement and pursuant to its lease with RELP Shakopee, LLC to pay before delinquency all real estate taxes assessed against the Development Property and the Minimum Improvements. The Developer acknowledges that this obligation creates a contractual right on behalf of the City or the Authority to sue the Developer or its successors and assigns to collect delinquent real estate taxes and any penalty or interest thereon and to pay over the same as a tax payment to the County auditor. In any such suit, the City and the Authority shall also be entitled to recover its costs, expenses and reasonable attorney fees.

Section 6.2. Reduction of Taxes. Prior to the termination of this Agreement, the Developer will not (a) cause a reduction in the real property taxes paid in respect of the Development Property through willful destruction of the Minimum Improvements or any part thereof; (b) fail to reconstruct the Minimum Improvements if damaged or destroyed; or (c) convey or transfer or allow conveyance or transfer of its leasehold interests in the Development Property to any entity that is exempt from payment of real property taxes under State law.

(The remainder of this page is intentionally left blank.)

ARTICLE VII

Prohibitions Against Assignment and Transfer; Indemnification

Section 7.1. Representation as to Development. Upon completion of the Minimum Improvements, the Developer will have a leasehold interest in the Development Property and intends to lease the Minimum Improvements for at least a period of fifteen (15) years.

Section 7.2. Prohibition Against Developer's Transfer of Property and Assignment of Agreement. Prior to the issuance of a Certificate of Completion for the Minimum Improvements:

(a) Except only by way of security for, and only for, the purpose of obtaining financing necessary to enable the Developer or any successor in interest to the Development Property, or any part thereof, to perform its obligations with respect to causing the construction of the Minimum Improvements under this Agreement, and any other purpose authorized by this Agreement, the Developer has not made or created and will not make or create or suffer to be made or created any total or partial sale, assignment, conveyance, or lease, or any trust or power, or transfer in any other mode or form of or with respect to the Agreement or its leasehold interests in the Development Property or any part thereof or any interest therein, or any contract or agreement to do any of the same, to any person or entity whether or not related in any way to the Developer (collectively, a "Transfer"), without the prior written approval of the City and the Authority unless the Developer remains liable and bound by this Agreement in which event the City's and Authority's approval are not required. Any such Transfer shall be subject to the provisions of this Agreement. Notwithstanding anything to the contrary in this Section, the Developer may assign its rights under this Agreement or the Notes to the Holder of a Mortgage, provided the Mortgage is approved by the City and the Authority.

(b) In the event the Developer, upon Transfer of its leasehold interest in the Development Property or any portion thereof, seeks to be released from its obligations under this Agreement as to the portions of the Development Property that is transferred or assigned, the City and the Authority, shall be entitled to require, except as otherwise provided in the Agreement, as conditions to any such release that:

(i) Any proposed transferee shall have the qualifications and financial responsibility, in the reasonable judgment of the City and the Authority, necessary and adequate to fulfill the obligations undertaken in this Agreement by the Developer as to the portion of the Development Property to be transferred.

(ii) Any proposed transferee, by instrument in writing satisfactory to the City and the Authority and in form recordable in the public land records of the County, shall, for itself and its successors and assigns, and expressly for the benefit of the City and the Authority have expressly assumed all of the obligations of the Developer under this Agreement as to the portion of the Development Property to be transferred and agreed to be subject to all the conditions and restrictions to which the Developer is subject as to such portion; provided, however, that the fact that any transferee of, or any other successor in interest whatsoever to, the Development Property, or any part thereof, shall not, for whatever reason, have assumed such obligations or so agreed, and shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the City and the Authority) deprive the City and the Authority of any rights or remedies or controls with respect to the Development Property or any part thereof or the construction and equipping of the Minimum Improvements; it being the intent of the parties as expressed in this Agreement that (to the fullest extent permitted at law and in equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement)

no transfer of, or change with respect to, ownership in the Development Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the City and the Authority of or with respect to any rights or remedies on controls provided in or resulting from this Agreement with respect to the Minimum Improvements that the City and the Authority would have had, had there been no such transfer or change. In the absence of specific written agreement by the City and the Authority to the contrary, no such transfer or approval by the City and the Authority shall be deemed to relieve the Developer, or any other party bound in any way by this Agreement or otherwise with respect to the construction and equipping of the Minimum Improvements, from any of its obligations with respect thereto.

(iii) Any and all instruments and other legal documents involved in effecting the transfer of any interest in this Agreement or the Development Property governed by this Article VIII, shall be in a form reasonably satisfactory to the City and the Authority.

In the event the foregoing conditions are satisfied then the Developer shall be released from its obligation under this Agreement, as to the portion of the Development Property that is transferred, assigned or otherwise conveyed. The restrictions under this Section terminate upon issuance of the Certificate of Completion.

Section 7.3. Release and Indemnification Covenants.

(a) The City and the governing body members, officers, agents, servants and employees thereof (the "Indemnified Parties") shall not be liable for and the Developer shall indemnify and hold harmless the Indemnified Parties against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Development Property or the Minimum Improvements.

(b) Except for any willful misrepresentation or any willful or wanton misconduct or negligence of the Indemnified Parties, and except for any breach by any of the Indemnified Parties of their obligations under this Agreement, the Developer agrees to protect and defend the Indemnified Parties, now and forever, and further agrees to hold the aforesaid harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, equipping, ownership, maintenance and operation of the Development Property or the Minimum Improvements.

(c) Except for any willful misrepresentation or any willful or wanton misconduct or negligence of the Indemnified Parties, the Indemnified Parties shall not be liable for any damage or injury to the persons or property of the Developer or its officers, agents, servants or employees or any other person who may be about the Development Property or Minimum Improvements.

(d) All covenants, stipulations, promises, agreements and obligations of the City and the Authority contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of such entities and not of any governing body member, officer, agent, servant or employee of such entities in the individual capacity thereof.

ARTICLE VIII

Events of Default

Section 8.1. Events of Default Defined. The following shall be “Events of Default” under this Agreement and the term “Event of Default” shall mean, whenever it is used in this Agreement, any one or more of the following events:

- (a) failure by the Developer to observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed hereunder;
- (b) commencement by the Holder of any Mortgage on the Development Property or any improvements thereon, or any portion thereof, of foreclosure proceedings as a result of default under the applicable Mortgage documents;
- (c) if the Developer shall
 - (i) file any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the United States Bankruptcy Act or under any similar federal or State law; or
 - (ii) make an assignment for benefit of its creditors; or
 - (iii) admit in writing its inability to pay its debts generally as they become due; or
 - (iv) be adjudicated a bankrupt or insolvent.

Section 8.2. Remedies on Default. Whenever any Event of Default referred to in Section 8.1 of this Agreement occurs, the City and the Authority may each exercise any of the following rights under this Section 8.2 after providing thirty (30) days’ written notice to the Developer of the Event of Default, but only if the Event of Default has not been cured within said thirty (30) days or, if the Event of Default is by its nature incurable within thirty days, the Developer does not, within such thirty-day period, provide assurances reasonably satisfactory to the party providing notice of default that the Event of Default will be cured and will be cured as soon as reasonably possible:

- (a) Suspend its performance under the Agreement until it receives reasonably satisfactory assurances that the Developer will cure its default and continue its performance under the Agreement.
- (b) Cancel and rescind or terminate its obligations under the Agreement.
- (c) Take whatever action, including legal, equitable or administrative action, which may appear necessary or desirable to collect any payments due under this Agreement, or to enforce performance and observance of any obligation, agreement, or covenant of the Developer under this Agreement.

Section 8.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to any party is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver

thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order for the City and the Authority to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be required in this Article VIII.

Section 8.4. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 8.5. Attorney Fees. Whenever any Event of Default occurs and if the City, the Authority, or Developer shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Developer, the Authority, or the City under this Agreement, the non-prevailing party or parties in any such action agrees that it shall, within 10 days of written demand by the prevailing party or parties, pay to the prevailing party or parties the reasonable fees of such attorneys and such other reasonable expenses so incurred.

Section 8.6. Default by City or Authority. Notwithstanding anything to the contrary herein, in the event the City or the Authority fails to perform any covenant, condition, obligation or agreement on its part, and such failure has not been cured within 30 days after receipt of written notice to the party from the Developer, or if such failure is by its nature incurable within 30 days, the party does not, within such 30-day limit, provide assurances reasonably satisfactory to the Developer that the failure will be cured as soon as reasonably possible, then the Developer may exercise such remedies as may be available at law or in equity with respect to the defaulting party. The terms of Sections 8.3, 8.4, and 8.5 shall apply in favor the Developer as well as the City and the Authority.

(The remainder of this page is intentionally left blank.)

ARTICLE IX

Additional Provisions

Section 9.1. Conflict of Interests; Representatives Not Individually Liable. The City and the Authority and the Developer, to the best of their respective knowledge, represent and agree that no member, official, or employee of the City or the Authority shall have any personal interest, direct or indirect, in the Agreement, nor shall any such member, official, or employee participate in any decision relating to the Agreement which affects his personal interests or the interests of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official, or employee of the City and the Authority shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the City and the Authority or for any amount which may become due to the Developer or successor or on any obligations under the terms of the Agreement.

Section 9.2. Equal Employment Opportunity. The Developer, for itself and its successors and assigns, agrees that during the construction and equipping of the Minimum Improvements provided for in the Agreement it will comply with all applicable federal, state and local equal employment and non-discrimination laws and regulations.

Section 9.3. Provisions Not Merged With Deed. None of the provisions of this Agreement are intended to or shall be merged by reason of any deed transferring any interest in the Development Property and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

Section 9.4. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of the Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 9.5. Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand, or other communication under the Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally; and

(a) in the case of the Developer, is addressed to or delivered personally to the Developer at _____; Attention: _____;

(b) in the case of the City, is addressed to or delivered personally to City Hall, 129 Holmes Street South, Shakopee, Minnesota 55379; Attention: City Administrator; and

(c) in the case of the Authority, is addressed to or delivered personally to City Hall, 129 Holmes Street South, Shakopee, Minnesota 55379; Attention: Executive Director.

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this Section.

Section 9.6. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the City, Authority, and Developer have caused this Contract for Private Development to be duly executed by their duly authorized representatives as of the date first above written.

CITY OF SHAKOPEE, MINNESOTA

By: _____
Its: Mayor

By: _____
Its: City Administrator

STATE OF MINNESOTA)
) SS.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by Brad Tabke, the Mayor of the City of Shakopee, Minnesota, on behalf of the City.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by _____, the City Administrator of the City of Shakopee, Minnesota, on behalf of the City.

Notary Public

Execution page of the Authority to the Contract for Private Development, dated as of the date and year first written above.

**ECONOMIC DEVELOPMENT
AUTHORITY FOR THE CITY OF
SHAKOPEE, MINNESOTA**

By: _____
Its: President

By: _____
Its: Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this ____ day of August, 2015, by _____, the President of the Economic Development Authority for the City of Shakopee, Minnesota, on behalf of the Authority.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF SCOTT)

The foregoing instrument was acknowledged before me this ____ day of August, 2015, by _____, the Executive Director of the Economic Development Authority for the City of Shakopee, Minnesota, on behalf of the Authority.

Notary Public

Execution page of the Developer to the Contract for Private Development, dated as of the date and year first written above.

AMAZON.COM.DEDC, LLC

By: _____

Its: _____

STATE OF _____)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015,
by _____, the _____ of Amazon.com.dedc,
LLC, a Delaware limited liability company, on behalf of the Developer.

Notary Public

SCHEDULE A
DEVELOPMENT PROPERTY

INSERT LEGAL DESCRIPTION

SCHEDULE B

CERTIFICATE OF COMPLETION

The undersigned hereby certifies that Amazon.com.dedc, LLC, a Delaware limited liability company (the “Developer”), has fully complied with its obligations under Articles III and IV of that document titled “Contract for Private Development,” dated _____, 2015, between the City of Shakopee, Minnesota (the “City”), the Economic Development Authority for the City of Shakopee, Minnesota (the “Authority”) and the Developer, with respect to causing the Minimum Improvements to be constructed in accordance with the Construction Plans, and that the Developer is released and forever discharged from its obligations to direct the construction of the Minimum Improvements set forth in Articles III and IV of the Contract for Private Development.

Dated: _____, 20__.

CITY OF SHAKOPEE, MINNESOTA

By: _____

Its: _____